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Processing Procedures for SIP Revisions (And 111(d) Plans)

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The guideline summarizes State Implementation Plans (SIPs) processing procedures used by EPA's Regional Offices and Headquarters to propose and promulgate SIP provisions. The guideline contains a discussion of how SIPs are classified as "normal" or "special" action, and how SIPs are processed according to these classifications. It also contains a description of the role of various EPA Headquarters offices in SIP review, and a brief discussion of the components of a Federal Register action.

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Processing Procedures For SIP Revisions (And 111(d) Plans)

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, NC 27711

March 1981

This guideline is being issued by the Office of Air Quality Planning and Standards (OAQPS) to provide information to EPA Regional Offices, State and local air pollution control agencies, and the public on EPA preparation and processing of revisions to State Implementation Plans. The guideline will be available, as supplies permit, from the Library Services Office (MD 35), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, or for a nominal fee, from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

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PREFACE

It is our intention to make this guideline a dynamic record of SIP processing policy. This will be done in two ways. First, we will establish a workgroup to review the guideline annually and recommend appropriate revisions. The workgroup will include representatives of the Regions and Headquarters offices which review SIPs. Secondly, we have added Appendix B, "Special Processing Requirements," which will be revised as EPA makes major changes in SIP processing.

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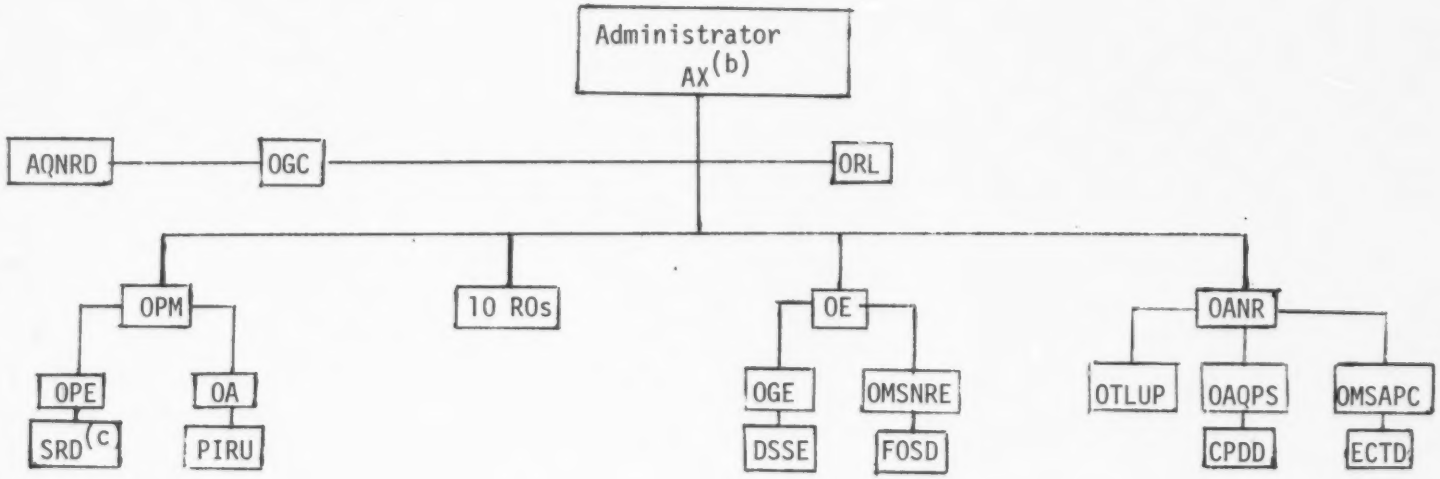
LIST OF ABBREVIATIONS

A	Administrator
OGC	Office of General Counsel
AQNRD	Air Quality, Noise, and Radiation Division
ORL	Office of Regional Liaison
OANR	Office of Air, Noise, and Radiation
OTLUP	Office of Transportation and Land Use Policy
OAQPS	Office of Air Quality Planning and Standards
CPDD	Control Programs Development Division
OMSAPC	Office of Mobile Source Air Pollution Control
ECTD	Emission Control Technology Division
OE	Office of Enforcement
OGE	Office of General Enforcement
DSSE	Division of Stationary Source Enforcement
OMSNRE	Office of Mobile Source, Noise and Radiation Enforcement
FOSD	Field Operations and Support Division
OPM	Office of Planning and Management
OPE	Office of Planning and Evaluation
SRD	Standards and Regulations Division
OA	Office of Administration
PIRU	Public Information Reference Unit
AA	Assistant Administrator
RO	Regional Office
RA	Regional Administrator
OFR	Office of Federal Register
FRO	Federal Register Officer

FIGURE 1. ORGANIZATION CHART FOR HEADQUARTERS REVIEW AND COORDINATION[a]



a. This skeleton organization chart shows only those organizational components frequently involved in the SIP review process.

b. Administrator's Correspondence Control.

c. Contains Federal Register Officer.

PROCESSING PROCEDURES FOR SIP REVISIONS (AND 111(d) PLANS)

1.0 INTRODUCTION

1.1 Purpose

This guideline was originally issued in June 1973. Subsequent revisions were made in April and October 1975, and September 1976. The major revisions to previous guidelines involved publication of State submitted revisions to SIPs as proposed rulemaking for public comment, and the use of the normal and special action categories in processing SIP revisions.

This document supersedes OAQPS Guideline No. 1.2-005A (Revised 9/76) entitled Revisions to State Implementation Plans - Procedures for Approval/Disapproval Actions which was distributed on October 12, 1976.

Major new provisions in this action are as follows:

a. At present, ORL only distributes copies for the Regions of Part D special action plans to Headquarters offices located in Washington, D.C. In the future ORL has agreed to distribute all special actions to Headquarters offices located in Washington, D.C.

b. Procedures for processing 111(d) plans are now covered by this guideline. These procedures are generally the same as those for processing SIP revisions. For a discussion of 111(d) plans see Appendix A - Plans for 111(d) Implementation.

c. Section 307(a) of the Clean Air Act Amendments of 1977 specifies administrative procedures which require that a docket be established for each EPA originated SIP rulemaking action at the proposal stage. The docket must contain all data, information, and documents on which the proposed rule relies as of the date of the publication of the proposed

rule. This requirement does not apply to State-submitted SIP revision plans. This guideline includes a brief discussion of docket requirements for Regional Office-originated SIP revisions (see Section 2.1.4).

d. New procedures for incorporation by reference of State-submitted SIP materials are discussed in Section 2.5 - Incorporation by Reference.

e. Exceptions to the general processing guidance are discussed in Appendix B. Future exceptions will be incorporated into Appendix B through supplemental issuances of that Appendix.

f. The guideline has a new cover because the OAQPS Guideline Series has been discontinued. All future guidelines will have EPA numbers only. This action also changes the title from Revision to SIPs - Procedures for Approval/Disapproval Actions, to Processing Procedures for SIP Revisions (and 111(d) Plans). We feel that the new title is more descriptive.

1.2 Overview

These procedures apply to 111(d) plans and to all SIP-related actions that involve a change or modification in the SIPs (compliance schedules, control strategy, emergency episode, resources, etc.).

The Regional Office is responsible for direct interface with the State in matters involving the development and submittal of SIP revisions. This includes responsibility for seeing that all material germane to revisions have been received from the State and forwarded for review, evaluation, recommendations and action. Thus, any materials received

from a State which will have a bearing on EPA rulemaking should be forwarded immediately to involved Headquarters' offices.

EPA uses a classification system to determine how SIPs are processed. Normal actions require minimal Headquarters' review. Special actions require Headquarters' concurrence. The ORL in Washington will coordinate processing of special action SIP revisions.

States, EPA Regional Offices or Headquarters may initiate SIP revisions. This guideline covers principally State-initiated actions. Procedures for SIP processing are shown in Figures 4 and 5 on pages 31 and 32.

An issue of major concern to the reviewing offices is the completeness of the materials they receive for review. Five offices receive copies of the entire rulemaking package; OGC, CPDD, SRD, PIRU, and OFR. OTLUP, DSSE, FOSD, and ECTD receive only that portion of the plan which pertains to their program area. The Regions should be certain that offices receiving portions of a plan, such as transportation control measures, or I/M plans, receive all the information relevant to that portion of the plan.

2.0 FEDERAL REGISTER PACKAGES

2.1 Content

2.1.1 Proposed Rulemaking - Federal Register actions submitted by the States have two stages: A proposed rulemaking stage in which public comment is solicited on the proposed action; and a final rulemaking stage in which EPA promulgates the action. All proposed rulemaking packages should include three components: the transmittal memorandum (original), proposed regulatory portion (original and 5 copies), and attachments (1 copy).

The transmittal memorandum should:

a. Designate the proposal as a special action, or a normal action in the subject line,

b. Detail any information needed to explain the package, and for special actions, explain why the SIP revision is so classified.

c. Include the name and telephone number of a person in the Region to be contacted if questions arise, and

d. For special actions only, list the reviewing offices receiving copies of the package.

The regulatory portion composed of the preamble and regulations should state that certain specific material has been received from a State as a proposed amendment to the SIP, summarize the content of the proposal, and explain that the proposal is available for public comment. To the extent warranted by the complexity of the action, the workload of the Regional Office, and other relevant considerations, a statement should be put in the preamble indicating whether EPA thinks the revision is approvable.

The attachments include a copy of the State submittal, and any other appropriate technical documentation. For special actions, a summary of the State hearing should be included.

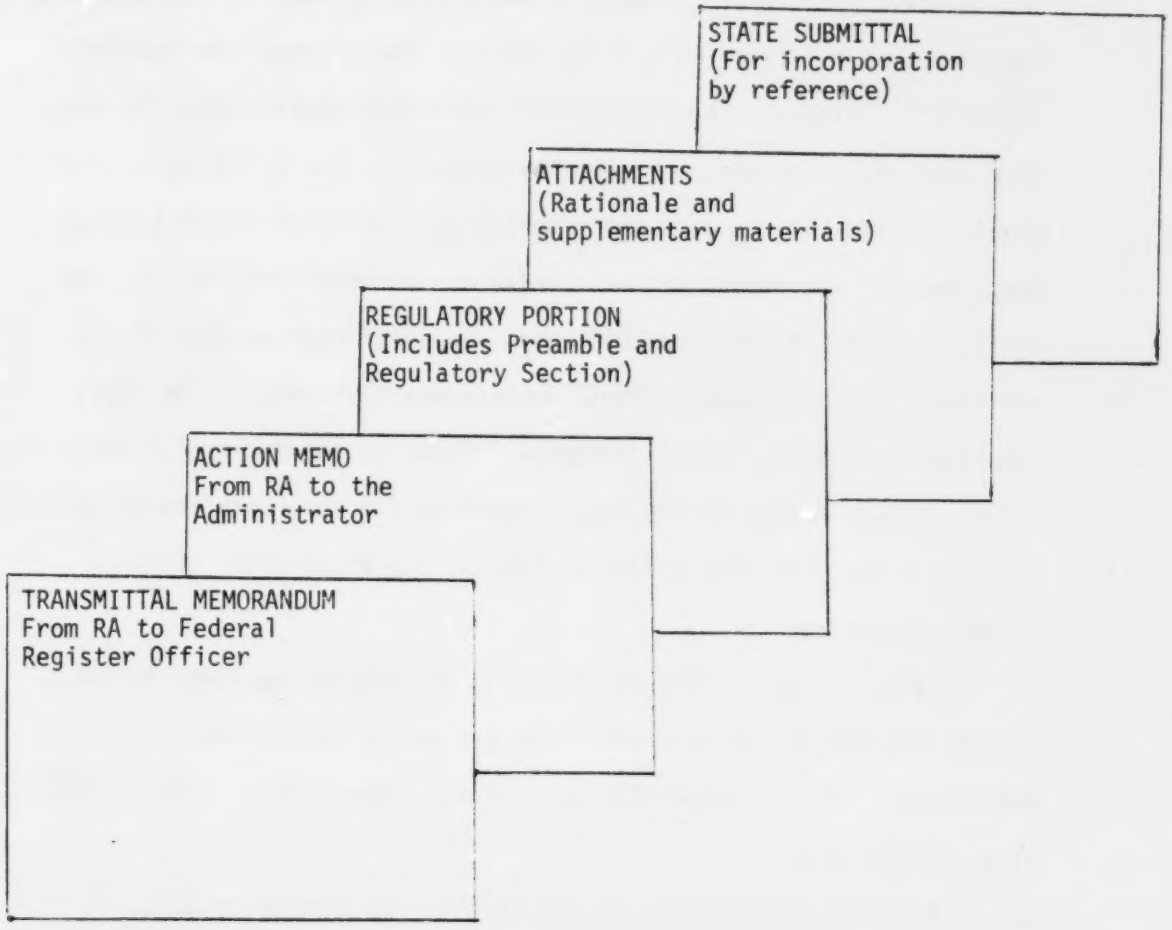
2.1.2 Final Rulemaking - The final rulemaking package may contain as many as five components. Figures 2 and 3 list in sequence the possible components of the final rulemaking packages for a normal and special action SIP revision. The transmittal memorandum should cover the same four items as discussed above for the proposal. The action memorandum should specify (a) the date the proposal was published in the Federal Register, (b) the normal versus special action determination, (c) the initiator (i.e., a State or EPA), and (d) significant aspects of the revision. The attachments should include any revisions to the State submittal made since Federal proposal. Finally, the Regional Offices should include a copy of the State submittal for incorporation by reference. Sections 5 and 6 of this guideline discuss the preparation of final rulemaking packages.

An alternative to this structure is to combine the items in the transmittal and action memoranda into one action memorandum as some Regions do. This is especially appropriate when it is a normal action of a routine nature.

2.1.3 Relevant Information for SIP Review - In processing SIPs, it is important that review offices receive all relevant materials at the beginning of the 14-day comment period. If Headquarters offices do not receive all relevant material, the 14 day period will not start.

If the plan revision is controversial, the Regions should send a copy (along with any other pertinent information) to appropriate Headquarters offices immediately after receipt from the State. This will allow Headquarters more time to become familiar with the action, and may prevent review problems later.

FIGURE 2. FEDERAL REGISTER PACKAGE COMPONENTS - FINAL RULEMAKING, NORMAL ACTION[a,b]



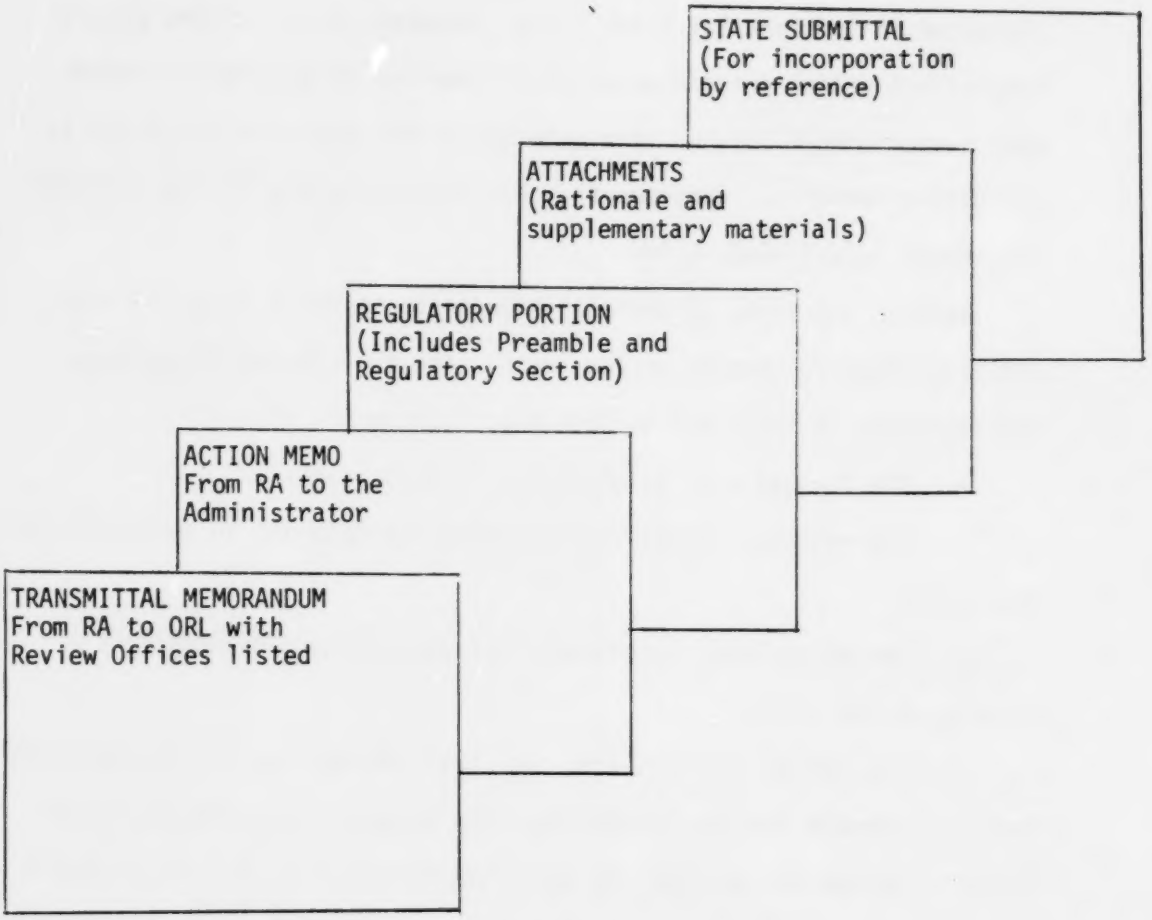
a. The ROs send the following to the EPA Federal Register Officer for use in Federal Register publications and for PIRU:

1. Transmittal memorandum - Original
2. Action memorandum - Original and 1 copy
3. Regulatory portion - Original and 5 copies
4. Attachments - 1 copy (includes any revisions to State submittal since proposal)
5. State submittal - 1 copy (for incorporation by reference, see Section 2.5)

b. The ROs should also send copies (except a(5)) as follows:

1. CPDD, SRD, OGC each receive a copy of the entire package, and
2. ECTD, OTLUP, DSSE, FOSD receive copies as appropriate where I/M, TCMs, stationary source, or mobile source issues are involved.

FIGURE 3. FEDERAL REGISTER PACKAGE COMPONENTS - FINAL RULEMAKING, SPECIAL ACTION[a-d]



a. The ROs send the following to ORL for eventual transfer to the EPA Federal Register Officer (the FRO sends one of these copies to PIRU) after the 14-day concurrence period:

   1. Transmittal memorandum - Original
   2. Action memorandum - Original and 1 copy
   3. Regulatory portion - Original and 5 copies
   4. Attachments - 1 copy (Includes any revisions to State submittal since proposal.)
   5. State submittal - 1 copy (for incorporation by reference)

b. If all Washington review offices are involved (SRD, OGC, OTLUP, DSSE, FOSD) five additional copies of the total package (except a(5)) must be forwarded to ORL.

c. The ROs send separate copies of the package (except a(5)) to CPDD and as appropriate to ECTD.

d. Part D plans must be sent via overnight mail. The ROs will judge the urgency of other actions and mail accordingly.

2.1.4 SIP Revisions Originated by the Regional Office - Rulemaking for Regional Office-originated SIP revisions includes the same components discussed in Sections 2.1.1 and 2.1.2. However, these actions propose regulations and/or procedures which EPA desires to promulgate, rather than summarizing a SIP revision proposed by the State for which EPA is soliciting comments. Consequently, the rulemaking must follow definite procedures established by law.

Section 307(d)(6) of the 1977 Amendments to the Act specify that EPA-originated rulemaking actions must state their basis and purpose. The statement of basis and purpose must include:

a. The factual data on which the rule is based;

b. The methodology used in obtaining the data and in analyzing the data; and

c. The major legal interpretations and policy considerations underlying the rule.

Section 307(d) also requires that both the Regions and Headquarters prepare a docket for the rulemaking. The preamble must include number, location of the docket, and the times the docket will be open to public inspection. Information on dockets may be obtained from OGC's Central Docket Section in Washington, D.C. (Phone 755-0245).

In addition to general requirements discussed above, the proposed rulemaking preamble must notify the public of EPA's intention to hold public hearings. The final rulemaking preamble must either include a response to each significant comment submitted as a written or oral presentation during the comment period; or, to avoid lengthy preambles, responses may be placed in the docket. If responses are placed in the docket, the preamble must so state. Appropriate technical support information such as air quality and emissions data and modeling results must also be included in the docket.

The 1977 Amendments to the Act provide that the promulgated rule may not be based (in part or whole) on any information which has not been placed in the docket as of the date of promulgation.

2.2 Preparation of Federal Register Actions

Headquarters periodically provides detailed guidance for preparation of specific regulatory packages such as approval/disapproval of plans. Such guidance is issue-specific and has not been included in this guideline. General guidance, such as the OAQPS "Air Programs Policy and Guidance Notebook" (May 1980), is also available. Questions should be directed to specific Headquarters offices. The detail of each preamble will vary with each situation depending on the complexity of the action, EPA resources, etc. For example, EPA may propose without taking a position on approvability of the action if time constraints dictate; however, it is preferable to discuss approvability whenever possible. Some general points for preparing Federal Register actions follow:

1. The proposal preambles must provide adequate information so that the public can comment intelligently and have a meaningful opportunity to affect the decisions which the Agency makes. The preamble should state our position, finding, and basis for action. This applies as much where EPA expects to approve, as where EPA expects to disapprove a plan.

2. Regional Offices should consider designing proposals to encourage States to correct any deficiencies in their submittals; and to allow EPA to approve most corrected submittals without additional notice and comment. EPA may do this by suggesting ways that the State could cure the problem, and inviting comment on whether EPA should approve the submittal if the State revises it in any of the suggested ways. The suggested cures should be precise enough that EPA could approve a revised submittal without further proposal and public comment.

3. The approval/disapproval actions provide an excellent opportunity to make certain "housekeeping changes." For example, the terms "photochemical oxidants" and "oxidants" should be changed to "ozone." Headquarters will suggest other changes at appropriate times.

A copy of the "Federal Register Handbook of Document Drafting," June 1980, should be obtained by all personnel involved in the preparation of Federal Register notices. The handbook may be obtained through the Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408 (FTS 523-5266).

2.3 Rationale for Approval/Disapproval of State Submitted SIP Revisions

Some approval/disapproval actions result in lawsuits. Also, Headquarters staff needs certain information to permit a continued overview of SIP activities. Where EPA's actions cannot be explained fully in the Federal Register preamble, the Regional Offices must prepare a "Rationale for Approval/Disapproval" to explain the background and basis for the recommended action. This is particularly true when the SIP revision alters an emission limitation and consequently alters a control strategy. For this situation, the following type of information should be included in rationale documents:

a. Background of the Revision.

This should include a brief summary of the reasons for the revision, the extent of State/Regional Office interaction on the revision, any significant issues raised by the public, and any anticipated adverse reaction to the recommended action.

b. Adequacy of Control Strategy Demonstration.

This should summarize the type of control strategy demonstration conducted, including the model used, if any. It should identify any inadequacies in the State submission, and explain how those inadequacies were resolved.

c. Technical Aspects of the Demonstration.

This should include a summary of the significant input parameters to the model including air quality data, any assumptions used in the demonstration, and any unusual features of the demonstration (such as those accounting for complex terrain, stack height, emissions growth, etc.).

d. Projected Impact of the Revision.

This should include the trends in air quality and emissions for the area, and any impact on the compliance status of affected sources, including the impact on potential growth (i.e., maintenance) in the area.

This information should normally not exceed ten pages in length, and can be provided as a separate document (generally appropriate for revisions initiated by the State) or as a summary in the Technical Support Document (generally appropriate for revisions initiated by the Regional Office). This information should have been considered by the

Regional Office during the review process and should be readily available. Generally, a rationale should be prepared for final rulemaking when a State-submitted revision to a SIP is involved, and one or more rationales prepared, as appropriate, for the proposal and final rulemaking when an EPA-originated revision to a SIP is involved.

The "Rationale" document does not substitute for the comprehensive internal file which the Regional Office should retain on each State-submitted SIP revision. Internal files should include any pertinent notes, drafts, records of meetings and other conversations, memoranda, etc., which provide documentation of the decision making activities leading to the final rulemaking action. Such files are not normally reviewed by Headquarters staff, but they are necessary to permit accurate responses to inquiries by other organizations and the public, and to provide adequate support in any subsequent litigation.

2.4 Procedural Problems - When SIP Revisions Not Approvable

If the State submittal contains major deficiencies, the Regional Office should negotiate with the State to correct these deficiencies. Major deficiencies include procedural deficiencies in the submission of the revision (e.g., improper public hearing was held) or situations where the adoption of the action by the State will result in a deficiency in the SIP (e.g., air quality standards will be violated).

In such cases, the Regional Offices should notify the State by letter of the deficiencies as expeditiously as possible after receipt of plans. If the deficiencies are policy related or technical rather than administrative and affect the adequacy of a particular control strategy, the Regional Office should coordinate the response to the State with the necessary Headquarters offices. The notification must explain why the

submission is unapprovable and what, if any, corrective action is necessary. It may be appropriate to recommend that the State withdraw all or part of a submission. If the negotiations are successful and the major deficiencies are corrected, the Regional Office should proceed with the rulemaking action. If the negotiations are unsuccessful (the State will not revise or withdraw the submission), the deficiencies must be disapproved in 40 CFR 52, and corrective regulations proposed if necessary. Normally, if a SIP revision is disapproved, the present plan remains in effect. However, if the revision has been submitted to correct SIP inadequacies and is disapproved, corrective regulations may be necessary.

2.5 Incorporation by Reference

The original SIPs approved in 1972 were incorporated by reference by the Office of Federal Register (OFR). Since then, the OFR has ruled that all approved regulatory and nonregulatory revisions of the SIPs have not been properly incorporated by reference. Under the direction of CPDD, a contractor has gathered post-1972 SIP regulatory and nonregulatory revisions approved thru July 31, 1980 and is in the process of submitting them to OFR. An August 21, 1980 memorandum from CPDD (originated by the Control Programs Operation Branch - 629-5226) explains how new SIP actions can be properly incorporated by reference.

EPA's Federal Register Liaison Office is preparing detailed guidance to supplement CPDD's August 21, 1980 memorandum explaining how to incorporate new SIPs and SIP revisions. In the interim, the following procedures apply to all final EPA approvals of State-submitted SIP material which must be incorporated by reference:

1. In the preamble to EPA's notice of final action -

   a. The following address must be added to the "address" section: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20460. (This will indicate where the State submittal may be found for public inspection.)

   b. The following boiler plate must be added immediately following the signature of the Administrator: "NOTE - Incorporation by reference of the State Implementation Plan for the State of _____ was approved by the Director of the Federal Register on July 1, 1980." (The July 1, 1980 date should be used in every case.)

2. The final action package forwarded to EPA's Federal Register Officer (for normal actions) or to ORL (for special actions) must contain one additional copy of the complete State submittal which EPA is approving (including both regulatory and nonregulatory material). This extra copy must be accompanied by a cover memo for transmittal to OFR as shown in Item #3 of this section. The memo should identify the State submittal using the same wording which appears in the "Identification of Plan" section of the final action notice found in the regulatory section of the notice containing the amendments to Title 40 of the CFR. The State submittal should be in good condition so that copies of it will be readable.

3. Example memo for submission of State SIP revision to OFR:

SUBJECT: Submission of the Revision to the State Implementation Plan for the State of _____ for Incorporation by Reference

FROM: EPA Federal Register Officer

TO: Office of the Federal Register

Please add this document to the _____ Implementation Plan file and tab it in the appropriate sequence.

Identification of the Document: (Example - Ohio Nonattainment Plan for Ozone).

Not all final SIP actions require incorporation by reference. As a rough guide, check to see if the regulatory portion of the Federal Register notice contains an amendment to the "Identification of Plan" portion of 40 CFR. If it does, incorporation by reference will be necessary.

Finally, a reminder that each Regional Office must file and make available to the public all approved State SIP submittals for the States in its jurisdiction. This action is also needed to satisfy the public availability requirement of the incorporation by reference regulations.

3.0 CLASSIFICATION OF PLAN REVISIONS

3.1 General

All SIP revisions fall into two categories: normal or special action. For normal plan revisions, Headquarters may comment but has no concurrence role. For special action plan revisions, Headquarters has concurrence/non-concurrence responsibility at the proposal and final rulemaking stages.

The special action category is generally reserved for revisions which have national policy or multi-regional implications. National policy implications are inherent in revisions which address unresolved policy issues, which might compromise ongoing litigation, or which raise new conceptual issues. For example, at the present time, national policy implications are inherent in any revision addressing issues such as Part D Nonattainment plans, SO_2 relaxation, visibility, and approval of State plans to prevent significant deterioration. Eventually, however, these issues will be resolved. After resolution through promulgation of regulations, or through other appropriate mechanisms, and after sufficient experience with interpretation and implementation of the promulgated regulations, the great majority of revisions dealing with these subjects will be considered as normal. After that time, special actions dealing with these subjects would be required only if the revision involved a departure from the generally agreed upon policy.

The magnitude of a plan revision and the environmental, social, or economic impact of that revision are generally not relevant in determining whether a revision needs special action, although special attention should be given by the Regional Office to revisions which do have major environmental, social, or economic impacts to insure that national policy issues are not involved. To automatically require Headquarters concurrence on major plan revisions solely due to their magnitude (such as revisions to SIPs which are "substantially inadequate" for attainment) would result in duplication of Regional Office efforts, and an appropriate Headquarters review could not be accomplished in the 14-day time period permitted by the existing procedures. For example, a SIP revision might result in major environmental, social, and economic impact. However, if regulations and guidance for development and implementation of the plan have been distributed to the Regional Offices, and the review was conducted consistent with that guidance, the action should be classified normal.

Thus, criteria for classification of normal and special action plan revisions may be summarized as follows:

a. Normal Action - Issues which do not have national or multi-regional implementations, and for which policy has been established. For these purposes, policy has been established when the Regional Offices have received guidance from Headquarters in the form of regulations and guidelines which have been approved by appropriate EPA offices as representing Agency policy. Some examples of normal issues are:

(1) Non-regulatory change to a SIP,

(2) Revisions to State-specified sampling or stack testing methods,

(3) Changes in control strategies in the SIP to replace the example region approach,

b. Special Action - Issues which have national or multi-regional implications and for which policy has not been established.

Regional Offices may exercise discretion in classifying a revision for special action to get Headquarters policy review, even though a certain revision might usually be classified as normal. Appendix B, "Special Processing Requirements," contains a list of issues generally classified as requiring special action. It is our intention to periodically update Appendix B as EPA revises its review policy.

4.0 HEADQUARTERS REVIEW AND COORDINATION

Several offices within EPA review and/or coordinate SIP actions. Figure 1 (page viii) presents a skeleton organization chart of these groups. As discussed in the overview, it is important that each review group receive a complete SIP revision which includes all pertinent information. The Regional Offices should also be sure that reviewing offices receiving only portions of a State submission, i.e., OTLUP, ECTD, etc., receive all pertinent information. All additional information or later revisions should also be promptly sent to the review offices. The function of each group with regard to SIP actions is summarized below. Appendix C includes the address of each office.

4.1 Office of the Administrator

4.1.1 Office of General Counsel (OGC) - The Air Quality, Noise, and Radiation Division (AQNRD) of OGC provides legal advice and assistance on all Clean Air Act matters. AQNRD receives copies of all proposed and final rulemaking packages involving SIP actions. For special action packages, AQNRD may recommend appropriate non-concurrence actions to OGC when warranted.

4.1.2 Office of Regional Liaison (ORL) - ORL is the staff office of the Administrator which coordinates the processing of proposed and final rulemaking packages for special action issues. ORL receives appropriate copies of the proposed and final rulemaking packages for all special action issues. ORL's role is to coordinate the review process, and does not include review responsibility.

4.2 Office of Air, Noise, and Radiation (OANR)

4.2.1 Office of Air Quality Planning and Standards (OAQPS), Research Triangle Park, North Carolina - The Control Programs Development Division (CPDD) of OAQPS maintains an up-to-date SIP file. CPDD and other elements of OAQPS provide technical support and assistance to the Regional Offices on the development, evaluation, and promulgation of SIPs, including all revisions thereto. The Regional Offices must send CPDD copies of all proposed and final packages involving SIPs. For special action issues, CPDD may recommend appropriate non-concurrence action to OANR when warranted.

4.2.2 Office of Transportation and Land Use Policy (OTLUP), Washington, D.C. - OTLUP is a staff office of OANR which provides technical support and assistance to the Regional Offices in the development, evaluation, and promulgation of transportation and land use related SIP actions. The Regional Offices send OTLUP that portion of the proposed and final rulemaking packages which includes transportation and land use elements. For special action packages, OTLUP may recommend appropriate non-concurrence action to OANR when warranted.

4.2.3 Office of Mobile Source Air Pollution Control (OMSAPC), Washington, D.C. - The Emission Control Technology Division (ECTD) of OMSAPC in Ann Arbor, Michigan, provides technical support to the Regional Offices for portions of the SIP related to inspection/maintenance. The Regional Offices send ECTD that portion of the proposed and final rulemaking packages which include inspection/maintenance provisions. For special action packages, ECTD may recommend appropriate non-concurrence action to OANR when warranted.

4.3 Office of Enforcement (OE)

4.3.1 Office of General Enforcement (OGE), Washington, D.C. -

a. The Division of Stationary Source Enforcement (DSSE) of OGE provides technical support and assistance to the Regional Offices for the development, evaluation and promulgation of compliance schedules which are consistent with previously approved control strategy. DSSE also provides support on the enforcement aspects of SIP revisions involving regulations for the control of stationary sources. The Regional Offices send DSSE copies of all compliance schedule approval/disapproval actions. DSSE also receives that portion of proposed and final rulemaking packages which include regulations for the control of stationary sources (this would include all 111(d) plans). For special action issues, DSSE may recommend appropriate non-concurrence action to OE when warranted.

4.3.2 Office of Mobile Source Noise and Radiation Enforcement (OMSNRE), Washington, D.C. - The Field and Support Division (FOSD) (formerly part of MSED - Mobile Source Enforcement Division) of OMSNRE provides technical support with regard to enforcement of regulations to control emissions from mobile sources. The Regional Office sends FOSD that portion of proposed and final rulemaking packages involving transportation control measures, inspection/maintenance, vapor recovery at service stations, and other regulations affecting mobile sources. For special action packages, FOSD may recommend appropriate non-concurrence action to OE when warranted.

4.4 Office of Planning and Management (OPM)

4.4.1 Office of Planning and Evaluation (OPE), Washington, D.C. -

The Standards and Regulatory Division (SRD) of OPM contains two components which coordinate SIP actions as follows:

a. SRD's Policy Analysis Staff conducts evaluations of proposed regulations pursuant to its reponsibility for procedural management and substantive evaluation of the developmental process for agency standards, regulations and guidelines. SRD receives copies of all proposed and final rulemaking packages. For special action packages, SRD may recommend appropriate non-concurrence action to OPM when warranted.

b. The Federal Register Officer is located in SRD's Communications Branch and serves as a liaison between EPA and the Office of the Federal Register. All rulemaking actions are routed through SRD as shown in Figures 4 and 5.

4.4.2 Office of Administration (OA), Washington, D.C. - The Management and Organization Division (MOD) of OA contains the Public Information Reference Unit (PIRU) which serves as a focal point in making EPA actions available to the public. Copies of all proposed and final rulemaking actions, along with related attachments are forwarded to PIRU by the EPA Federal Register Officer.

4.5 Assistance to Regional Offices by Headquarters Staff Offices

Upon request of a Regional Office, EPA staff offices will continue to provide advance comments on any State SIP revision or draft Federal Register notices prior to signature by the Regional Administrator. Where national policy issues do not exist but several Regions are developing individual regulations for similar sources, appropriate Headquarters offices (CPDD, OTLUP, DSSE, etc.) will monitor development of these regulations and inform the Regional Offices of other Regions working on similar regulations. Such regulations might relate to, for example, nonattainment plans, transportation control measures, or PSD. Any additional assistance requested will be provided commensurate with

availability of resources. Such solicitation of comments will not, however, abrogate the authority and responsibility of the Regional Administrator, nor will receipt of comments from Headquarters staff offices require the Regional Administrator to act in accordance with the comments or relieve the Regional Administrator from the requirement to obtain concurrence at the Assistant Administrator or General Counsel level on special action SIP revisions.

5.0 PROCESSING OF NORMAL SIP REVISIONS

5.1 Proposed Rulemaking

SIP revisions classified as normal will be processed as depicted in Figure 4 on page 33. If substantive or procedural problems occur with a State-submitted SIP revision (submittal contains major deficiencies), the Regional Office should negotiate with the State as discussed in Section 2.4. The proposed rulemaking package must be signed by the Regional Administrator.

The preamble to the proposal should adequately describe the content of the proposed revision, and identify major issues so that interested parties can determine the scope and impact of the proposal; then, if further detail is desired, the plan can be reviewed at the identified locations. The preamble should also contain a statement as to whether EPA thinks the revision is approvable as discussed in Section 2.0. It is important to prepare the proposal as soon as possible after receipt of the State submission to facilitate timely action.

For EPA-originated actions, the docket must be established as discussed in Section 2.1.4. Also, when necessary, the technical support document must be prepared and available at proposal time.

The Regional Office must mail the proposed rulemaking package to the Federal Register Officer through the Office of Planning and Management, Standards and Regulations Division (OPM-SRD), Attention: Federal Register Officer, EPA (PM-223), Waterside Mall, 401 M Street, SW, Washington, DC 20460. The package must include the original proposal (double spaced with pages numbered at the bottom) and five copies.

The Federal Register Officer will send the necessary copies to the Federal Register, PIRU, and the Office of Management and Budget.

Additional copies of the entire rulemaking package must be fowarded by the Regional Office to the following at the addresses shown in Appendix C:

a. CPDD, SRD, and OGC (OGC does not want the rationale),

b. DSSE, FOSD, ECTD, OTLUP as appropriate, and

c. Cognizant State and local air pollution control agencies (preamble and regulation only).

Once the proposed rulemaking package has been received by OPM (Federal Register Officer), it will be forwarded directly to the Federal Register without further review or delay. It is expected that these actions will appear in the Federal Register in 5 to 10 working days after receipt by OPM. If you have any questions on the status of a particular package, call the Federal Register Officer at 287-0778.

5.2 Handling Public Comments

A copy of all comments must be forwarded to the Public Information Reference Unit (specify page and date of Federal Register referred to; e.g., XX FR XXXXX, X/X/XX) at the previously mentioned address. The Regional Office will take substantive comments into proper consideration as to how they impact on approval/disapproval and proposal actions. In preparing the final rulemaking Federal Register package, public comments must be discussed in the preamble, along with EPA's response to such comments. If no comments were received, it must be so noted.

For EPA-originated SIP revisions, public comments must also be included in the docket (see Section 2.1.4).

5.3 Final Rulemaking

Final rulemaking for normal SIP actions are to be processed as shown in Figure 4. Final rulemaking action must be for the Administrator's signature. There will be no concurrence prior to submission of the Federal Register package to the Administrator although Headquarters may comment on the SIP action during the public comment period. Thus, as discussed in Section 5.2, the Regional Office will consider substantive comments on the proposed rulemaking action and discuss these in the action memorandum and preamble of the final rulemaking action along with EPA's response to such comments. As discussed in Section 2.0, the final Federal Register package must include the transmittal memo (original), action memo (original and 1 copy), the regulatory portion (original and 5 copies), and the rationale for approval/disapproval (1 copy). Also, provision must be made for incorporation by reference of the State-submitted SIP revisions as discussed in Section 2.5.

The Regional Administrator forwards the final rulemaking package through the Federal Register Officer to the Administrator for signature with copies to OGC, CPDD, and SRD. The Regional Administrator also sends additional copies to FOSD, DSSE, OTLUP, and ECTD as appropriate.

5.4 Procedure for Headquarters to Change a Normal Action to a Special Action Issue

If a staff office believes that a proposed rulemaking action classified as normal by a Regional Office should be a special action rulemaking,

that office may recommend that the appropriate Assistant Administrator (or the General Counsel) consult with the Regional Administrator on the need for special action on the rulemaking. A memorandum from the Assistant Administrator should be forwarded to the Regional Administrator (cc ORL) prior to the end of the comment period on the proposed rulemaking. The Regional Administrator and involved AAs are to reach agreement as to whether the rulemaking action will be treated as a normal or special action SIP revision at the final rulemaking stage, and the action is to be processed accordingly.

6.0 PROCESSING OF SPECIAL ACTION SIP REVISIONS

Rulemaking for SIP revisions classified as special action are to be processed as depicted in Figure 5. If substantive or procedural problems occur with State-submitted SIP revisions, the Regional Office is to negotiate with the State as discussed in Section 2.4.

Certain actions, covered in Appendix B, have been designated as special actions by Headquarters.

6.1 Proposed Rulemaking Action

The proposed rulemaking must be signed by the Regional Administrator and forwarded, in the appropriate number of copies, to ORL (attention: Director, ORL (A-101), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460). ORL forwards copies to the Washington review offices: OGC, SRD, OTLUP, DSSE, and FOSD as is indicated by the transmittal memo. In addition, the RAs send copies to CPDD and ECTD (for I/M plans). All Part D actions must be sent via overnight mail. For other actions, the RAs must determine their urgency and mail accordingly.

At the end of the 14-day period, if no non-concurrences have been received from an Assistant Administrator or the General Counsel, concurrence will be assumed. ORL will notify the Regional Administrator and forward the package to OPM/SRD for transmittal to the Federal Register.

6.2 Handling Public Comments

The public comments received by the Regional Office are to be discussed in the preamble of the final rulemaking package. If no comments are received, it must be so noted. The Regional Office will forward one copy of all public comments to PIRU and will supply copies of the comments to other Headquarters offices upon request.

For EPA originated actions, public comments are to be submitted directly to the docket at the following address: Central Docket Section, EPA, West Tower Lobby, Gallery I, 401 M St., S.W., Washington, D.C. 20460.

6.3 Final Rulemaking Action

As for the proposal, the Regional Administrator sends copies of the final rulemaking to CPDD and ECTD (for I/M plans) and the appropriate number of copies to ORL. ORL forwards, as indicated by the transmittal memo, copies to the Washington review offices: OGC, SRD, OTLUP, DSSE, and FOSD. Again, all Part D actions should be sent via overnight mail. During this time ORL will notify the appropriate staff offices of the time limits of the review period by telephone. At the end of that time, if no non-concurrences have been received from an Assistant Administrator or the General Counsel, ORL will notify the Regional Administrator and forward the package through SRD to the Administrator for signature.

The purpose of the Headquarters staff review is to focus on issues with national policy implications, the potential for Regional inconsistencies, or issues that may result in litigation. This does not preclude Headquarters from commenting on other areas, but the fundamental purpose of their review should be to address the broad areas delineated in the previous

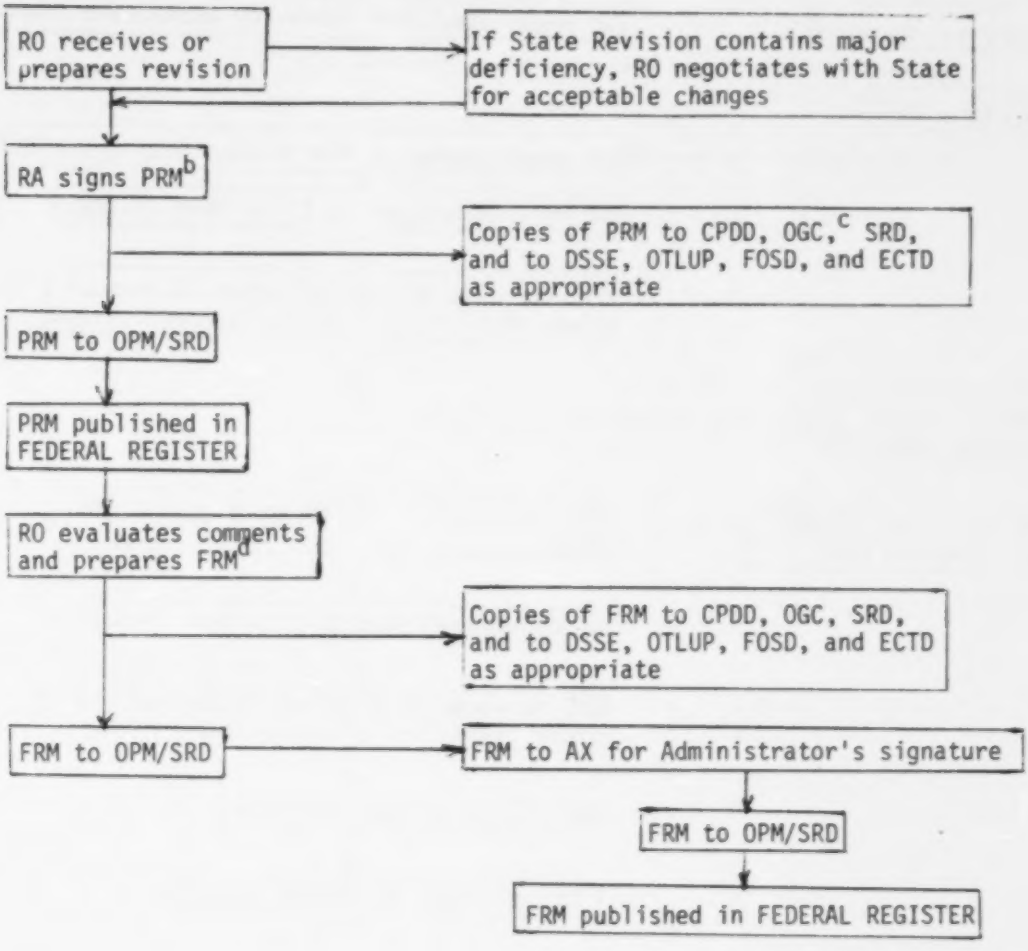
sentence. When, as a result of comments by Headquarters staff the Regional Office revises a package, Headquarters should then complete its review of the revised package as expeditiously as practicable; normally within two days after receiving the revised package.

6.4 Non-Concurrence

If a non-concurrence is warranted at the proposal or final rulemaking stage, the Assistant Administrator or General Counsel will forward it to the Regional Administrator with a copy to ORL. ORL will provide appropriate staff offices with copies of the non-concurrence. The Regional Administrator will initiate actions as appropriate to resolve the issue. Upon resolution, ORL will inform the other appropriate offices. If the non-concurrence is resolved by revising the original Federal Register package, the revised package will be resubmitted through the concurrence procedure. This procedure can be expedited by resolving changes via telephone and agreeing on a shorter concurrence time for the subsequent revision. The Regional Office then forwards the revision to ORL. ORL circulates the package to appropriate reviewers who must respond within an agreed upon period.

If an agreement cannot be reached, the Regional Office will prepare the package with the non-concurrence memorandum tabbed and transmit the package to the Administrator through ORL, with copies to appropriate review offices.

FIGURE 4. PROCEDURES FOR NORMAL SIP REVISIONS (AND 111(d) PLANS)[a-d]


RO receives or prepares revision
If State Revision contains major deficiency, RO negotiates with State for acceptable changes
RA signs PRM[b]
Copies of PRM to CPDD, OGC,[c] SRD, and to DSSE, OTLUP, FOSD, and ECTD as appropriate
PRM to OPM/SRD
PRM published in FEDERAL REGISTER
RO evaluates comments and prepares FRM[d]
Copies of FRM to CPDD, OGC, SRD, and to DSSE, OTLUP, FOSD, and ECTD as appropriate
FRM to OPM/SRD
FRM to AX for Administrator's signature
FRM to OPM/SRD
FRM published in FEDERAL REGISTER

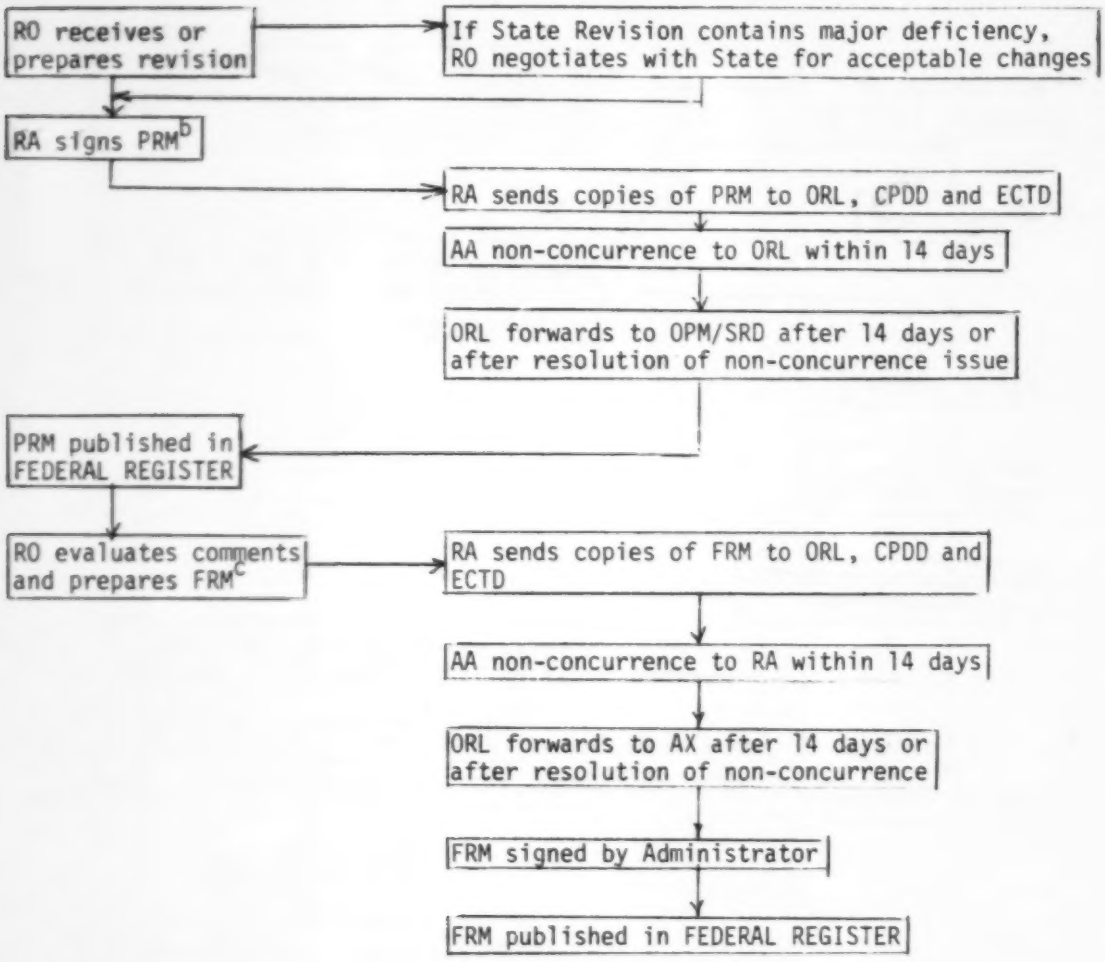
a. 111(d) plans are discussed in Appendices A and B to this guideline.

b. The Proposed Rulemaking Package (PRM) includes the transmittal memorandum, the action memorandum; original and one copy; preamble and regulatory portion: original and 5 copies; and 1 copy of any attachments. OPM/SRD will forward one of these copies to PIRU.

c. OGC does not want copies of support documents.

d. The Final Rulemaking Package (FRM) includes the same components as the PRM. Prior to promulgation, OPM/SRD will forward one of these copies to PIRU. One copy of material to be incorporated by reference (see Section 2.5) must be included.

FIGURE 5. PROCEDURES FOR SPECIAL ACTION SIP REVISION (AND 111(d) PLANS)[a,b,c]


RO receives or prepares revision
If State Revision contains major deficiency, RO negotiates with State for acceptable changes
RA signs PRM[b]
RA sends copies of PRM to ORL, CPDD and ECTD
AA non-concurrence to ORL within 14 days
ORL forwards to OPM/SRD after 14 days or after resolution of non-concurrence issue
PRM published in FEDERAL REGISTER
RO evaluates comments and prepares FRM[c]
RA sends copies of FRM to ORL, CPDD and ECTD
AA non-concurrence to RA within 14 days
ORL forwards to AX after 14 days or after resolution of non-concurrence
FRM signed by Administrator
FRM published in FEDERAL REGISTER

a. 111(d) plans are discussed in Appendices A and B to this guideline. Appendix B also discusses actions which are generally classified special.

b. The Proposed Rulemaking Package (PRM) includes the transmittal and action memoranda, preamble and regulatory portion, and attachments. If all review offices receive copies, ORL needs the original and 5 copies of the total package for circulation to SRD, OGC, DSSE, OTLUP, and FOSD. ORL also needs another 4 copies of only the preamble and regulatory portion for transfer to the Federal Register officer after the 14-day concurrence period, and a copy of the preamble, regulatory portion, and attachments for transfer to PIRU. The RO sends CPDD and ECTD their copies separately. Part D plans must be sent via overnight mail. The ROs will judge the urgency of other actions and mail them accordingly.

c. The Final Rulemaking Package (FRM) includes the same components as the PRM. The same number of copies are needed except 1 copy of material to be incorporated by reference must be included (see Section 2.5).

APPENDIX A

PLANS FOR 111(d) IMPLEMENTATION

Section 111(d) of the Clean Air Act requires EPA to establish procedures under which States submit plans to control certain existing sources of certain pollutants. On November 17, 1975 (40 FR 53340), EPA implemented section 111(d) by promulgating Subpart B of 40 CFR Part 60, establishing procedures and requirements for adoption and submittal of State plans for control of "designated pollutants" from "designated facilities." Designated pollutants are pollutants which are not included on a list published under section 108(a) of the Act (National Ambient Air Quality Standards) or section 112(b)(1)(A) (Hazardous Air Pollutants), but for which standards of performance for new sources have been established under section 111(b). A designated facility is an existing facility which emits a designated pollutant and which would be subject to a standard of performance for that pollutant if the existing facility were new.

Subpart B of 40 CFR Part 60 provides that EPA will publish a guideline document for development of State emission standards for existing sources after promulgation of any standard of performance for a designated pollutant. The document will specify emission guidelines and times for compliance and will include other pertinent information, such as discussion of the pollutant's effects on public health and welfare and a description of control techniques and their effectiveness and costs. The emission guideline will reflect the degree of emission reduction attainable with

the best adequately demonstrated systems of emission reduction, considering costs, as applied to existing facilities.

On April 6, 1977, CPDD distributed Guideline No. 1.2-072, Requirements and Procedures for Implementing Section 111(d) to the ROs. This guideline summarizes the requirements for the applicable EPA requirements in 40 CFR Part 60. It includes a checklist to be used in reviewing State-submitted plans which can be used in plan development.

Approval/disapproval of 111(d) plans are made in 40 CFR 62, which is modeled on Part 52, the approval/disapproval vehicle for SIP actions. If the State submits a negative declaration (they have no subject sources), this information is to be noted in the appropriate Section of Part 62.

EPA will process section 111(d) plans in the same manner as SIP revisions as shown in Figures 4 and 5. All negative declarations will be classified as normal actions. Section 111(d) plans also need to be incorporated by reference.

APPENDIX B

SPECIAL PROCESSING REQUIREMENTS

FEBRUARY 1981

This appendix includes a list of actions generally classified special and a discussion of the Region V Pilot program to reduce SIP processing time. In classifying actions not listed here, Regions should use the criteria in Section 3 to determine if the action should be normal or special.

1.0 ACTIONS GENERALLY CLASSIFIED SPECIAL

1.1 PSD plans.

1.2 Nonattainment plans required to meet section 172 of the Act (including I/M plans).

1.3 Relaxation of SO_2 regulations.

1.4 Visibility plans.

1.5 Plans affecting copper, lead, and zinc smelters.

1.6 Lead SIPs - only the following should be classified special action:

- A SIP for which a substantial part is proposed for disapproval, e.g., a major portion of the control strategy, and
- States requesting an extension beyond the October 1982 attainment date.

1.7 Stack height regulations.

1.8 Bubble proposals.

1.9 Where regulatory actions may involve inconsistent application of the requirements of the Act.

2.0 Steel Industry - Those actions which have a significant impact upon the industry or upon a specific permittee or facility or for which EPA's position will receive exceptional public scrutiny should be classified special. Notification of receipt from a State of such a plan must be given to DSSE. With the agreement of all reviewing offices a period shorter than 14 days may be established. Questions on classification of steel industry actions should be directed to DSSE, Washington, D.C., 755-2564.

2.1 Section 111(d) Plans - Initial section 111(d) plans will be classified special. EPA feels that the initial plans need a "special" classification until we obtain more expertise in preparing 111(d) plans. Negative declarations are normal actions. Questions on classifications of 111(d) actions should be directed to Control Programs Development Division, Control Programs Operations Branch, FTS 629-5226.

2.0 REGION V PILOT SIP REVIEW PROGRAM

An effort is underway to reduce Headquarters' review of some SIP packages and expedite these actions. OAQPS has agreed with Region V on a pilot SIP review program to reduce processing time for all Part D SIP revision packages that were initially proposed as special action but did not generate significant public comments. For six months beginning in February 1981, these final Part D actions from Region V will be processed as normal actions. At the end of this period EPA will evaluate the results of the pilot program and revise SIP processing procedures accordingly.

APPENDIX C

ADDRESS OF HEADQUARTERS OFFICES

WHICH REVIEW OR PROCESS SIPS

The first seven Headquarters Offices shown below are all located at 401 M Street, S.W., Washington, D.C. 20460.

1. U.S. EPA, Office of General Counsel, Air, Noise, and Radiation Division (A-133).

2. U.S. EPA, Office of Regional Liaison (A-101).

3. U.S. EPA, Office of Transportation and Land Use Policy (ANR-445).

4. U.S. EPA, Division of Stationary Source Enforcement (EN-341).

5. U.S. EPA, Field Operations and Support Division (EN-537).

6. U.S. EPA, Standards and Regulatory Division (PM-223). (Also for EPA Federal Register Officer, use this address.)

7. U.S. EPA, Management and Organization Division, Public Information Reference Unit (PM-213).

8. U.S. EPA, Control Programs Development Division (MD-15), Research Triangle Park, N.C. 27711.

9. U.S. EPA, Emission Control Technology Division (ANR-455), 2565 Plymouth Road, Ann Arbor, MI 48105.